

REMARKS

Applicants are responding to a notice of Non-Complaint Amendment under 37 C.F.R. § 1.121. In the above referenced Office Action, it has been indicated that the status of Claim 23 was listed as “currently amended”, but not changes to Claim 23 were indicated. In the previously submitted response Claim 23 was inadvertently listed as “currently amended,” when the appropriate status of Claim 23 is “previously presented.” Within this response, the status of Claim 23 is listed as “previously presented.” For convenience, a duplicate of the previously submitted remarks section is also submitted herewith. Accordingly, hereafter, “the Office Action” refers to the Office Action mailed October 20, 2004.

Applicant respectfully requests further examination and reconsideration in view of the above amendments and arguments set forth fully below. Claims 1-18 and 20, 21 and 23-32 were previously pending in this application. Claims 1-18 have been rejected and Claims 20, 21 and 23-32 have been allowed. By way of the proposed amendment Claim 1 has been amended. Accordingly, Claims 1-18 and 20, 21 and 23-32 are still pending in this application.

Rejections Under 35 U.S.C. § 103(a)

Within the previous Office Action, Claims 1-7, 9-11, 13-16 and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,795,153 to Rechmann (hereafter “Rechmann”) in view of U.S. Patent No. 6,506,563 to Ward et al. (hereafter “Ward et al.”); Claims 8 and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rechmann, in view of Ward et al., and further in view of U.S. Patent No. 6,019,505 to Myers (hereafter “Myers”); and Claim 12 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rechmann, in view of Ward et al., and further in view of U.S. Patent 6,462,070 to Hasan et al. (hereafter “Hasan et al.”). The rejections of Claims 1-18 under 35 U.S.C. § 103(a), cited above, are considered moot in view of the above amendment.

Claim 1 has now been amended to recite a method of treating a pathogen within an oral cavity, the method comprising testing for the presence of one or more pathogens within the oral cavity with a culture, selecting pulsed laser light with a wave length corresponding to an absorption spectrum of the pathogen and irradiating target tissue within the oral cavity with pulsed laser light having an energy of 10 Joules/cm² or greater per pulse.

Prior art of record does not teach the features of testing with a culture for a pathogen, selecting the pulsed laser light with a wavelength corresponding and absorption spectrum of the an identified pathogen and eradicating pathogen with the pulsed laser light within the oral cavity.

For the reasons given above, Applicant respectfully submits that Claims 1-18, 20, 21 and 23-32 are now in condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss them so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: 2/22/2005

By: 

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CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 2-22-05 By: 